

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 11,156  
 )  
Appeal of )

## INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare regarding the calculation of her 1991 food stamp allotment.

## FINDINGS OF FACT

The petitioner is self-employed and, for several years, has struggled to continue her business and maintain her independence and dignity despite being saddled with enormous debts largely incurred by her husband before she and he were divorced. Her food stamps have been calculated based on the net income she reports to IRS from the previous year. Thus, in 1991, the petitioner's food stamps were based on the average monthly income she received in 1990, based on her 1990 tax return. That tax return showed "taxable income" of \$93.00 for the year. The Department determined her monthly food stamps for 1991 by dividing this figure by 12--yielding a monthly "earned income" of \$7.75. Combined with other unearned income received on a regular basis by the petitioner's household, this yielded a monthly food stamp allotment for 1991 of \$39.00.

However, on the petitioner's 1990 tax return she also

reported the payment of a tax "penalty" of \$92.00. The Department assumed this was for underpaid income taxes for a previous year, and it did not deduct this amount from the petitioner's net income for 1990. The petitioner maintains, however, that the penalty was for property taxes, which, under the regulations (see infra), could be an allowable deduction.

If the petitioner were allowed to subtract this penalty, her net earned income for 1990 would have been \$1.00--resulting in an increase in her food stamp allotment of about \$2.00 per month.

At the hearing in this appeal, held in May, 1992, it was agreed that the matter would be continued to allow the petitioner to obtain verification from her town treasurer that in 1990 she paid a property tax penalty of \$92.00. The petitioner understood that without such verification, it could not be found that the Department's determination of the petitioner's 1991 food stamps was in error. Despite the matter being continued for more than nine months, the petitioner has not produced this verification.<sup>1</sup>

ORDER

The Department's decision is affirmed.

REASONS

The regulations are clear that "income taxes" are not

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<sup>1</sup>The hearing officer sent several memos to the petitioner to make sure she understood what was required. The most recent, dated January 20, 1993, set a February 12, 1993, deadline for the petitioner to submit this information.

deductible from "net earned income" because "these expenses are accounted for in the (standard) 20 percent earned income deduction specified in 273.9(d)(2)". F.S.M. 273.11(a)(4)(ii)(C). At the hearing the petitioner agreed to provide verification of her claim that the \$92.00 penalty in question was for property taxes--not income taxes. In more than nine months since that time, she has not done so. Therefore, it cannot be concluded that the Department's decision regarding the petitioner's 1991 food stamps was in error.

For this reason, the Department's decision is affirmed.

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